

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09/07/2003

CORAM

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

CRIMINAL ORIGINAL PETITION NO.19269 OF 2003

AND

CRL.M.P.No.5379 OF 2003.

P.Ravi ... Petitioner

-Vs-

The Inspector of Police,
Q Branch - CID,
Chennai. ... Respondent

Criminal Original petition filed under Section 482 of the Code of
Criminal Procedure for the relief as stated therein.

For petitioner : Mr.P.Vijendran

For respondent : Mr.A.N.Thambidurai
Government Advocate (Crl.side)

:O R D E R

Petitioner, praying to direct the designated TADA Court, Trichy to keep in abeyance the case in C.C.No.5/2002 until it dispose of the TADA case in C.C.No.43/1995, has come forward to file the above criminal original petition before this Court on averments such as that he is implicated as accused No.18 in the FIR registered by the Ammapettai Police in Cr.No.429/1994 under Sections 120-B,302,332,324 of IPC and Section 2(3) of TNPP (P&L) Act, 1992, Sections 4 and 5 of the Explosive Substances Act, Section 25(2) of the Indian Arms Act, Sections 3,4,5 and 6 of TADA (P) Act, 1987 and Section 13(2) of The Unlawful Activities (Prevention) Act; that the charge sheet was laid on 16.11.1994 in the said case and not only an NBW was issued against him but also he was announced as a proclaimed offender.

2. The petitioner would further submit that he was produced before the TADA Court on 16.4.1995 and gave a statement under Section 164(5) Cr.P.C. and he was remanded to judicial custody; that yet another case on a private complaint filed in the Court of XVI M.M., G.T. Chennai was taken on file for alleged offences punishable under Sections 193,211,469,307 and 109 r/w.120-B IPC and the said Court, under Section 156(3) Cr.P.C. directed the Central Crime Branch Police, Chennai or any other appropriate jurisdictional police to register a case, investigate into and file a final report and the

respondent filed the final report in his Cr.No.403/2001 for offences made out under Sections 193, 211 and 469 IPC on the file of the Court of Additional Metropolitan Magistrate, Egmore, Chennai and the said case was also transferred to the designated TADA Court, Trichy.

3. In the final phase of the above criminal original petition, the petitioner would further submit that both the cases are pending before one and the same TADA Court, Trichy and the said Court is yet to decide whether he is an accused in the said case or not. The petitioner, then quoting Section 17 of the TADA Act, would pray for the relief extracted supra.

4. During arguments, the learned counsel appearing on behalf of the petitioner would lay emphasis on the same old points brought forth, as extracted above from the petition laying emphasis on Section 17 of the TADA Act which pertains to 'trial by designated courts to have precedence'.

5. On the other hand, on the part of the respondent, not only a counter affidavit would be filed but also the learned Government Advocate appearing on the criminal side would argue to the effect of explaining the incident that occurred on 25.5.1994 during midnight and the case came to be registered in Ammapettai P.S. Crime No.429/1994 and further explaining as to how the other case in Central Branch Crime No.403/2001 came to be registered and got transferred to the designated Court at Trichy, would submit that in spite of the petitioner appearing on all hearings, the petitioner's from out of 14 hearings, appeared only for three years and therefore, in spite of having examined 146 witnesses in C.C.No.43 of 1995, the delay has occurred and the said case stood posted to 2.7.2003 for the cross-examination of the Investigating Officer thus giving priority only to the TADA case in C.C.No.43/1995 and assailing with the assumption of the petitioner that in the event of his acquittal in C.C.No.43/1995, he would be discharged in C.C.No.5 of 2002 also as totally wrong and misconceived and that there is no inconvenience for the petitioner to appear before the designated TADA Court, Trichy in both the cases on the same day and no inconvenience or prejudice is caused to the petitioner, the learned Government Advocate would ultimately pray to dismiss the above criminal original petition as devoid of merits.

6. In consideration of the facts pleaded, having regard to the materials placed on record and upon hearing the learned counsel for both, what comes to be seen is that it is Section 17 of the TADA Act, as per which, the petitioner is seeking remedy and therefore it is relevant to extract the said Section:

"17. Trial by Designated Courts to have precedence: The trial under this Act of any offence by a Designated Court shall have precedence over the trial of any other case against the accused in any other Court not being a Designated Court and shall be concluded in preference to the trial of such other case and accordingly the trial of such other case shall remain in abeyance."

7. The plain meaning of the Section would denote that the Section is applicable only to the trial of any other case against the accused in any other Court not being a designated Court over which, the trial of any offence under TADA Act pending in a designated Court shall have precedence,

preference being given to the TADA case handled by the Court and the trial of such other case shall remain in abeyance.

8. It is relevant to consider that it is the case of the petitioner that both the cases of the petitioner, the first one in C.C.No.43/19 95 and the second one in C.C.No.5/2002 are pending in one and the same TADA Court, Trichy and hence the question of application of the Section 17 to these cases does not arise and hence the only conclusion that could be arrived at in these circumstances is to dismiss the above petition as devoid of merits and the same is decided accordingly.

In result, the above criminal original petition is devoid of merits and the same is dismissed as such.

Consequently, Crl.M.P.No.5379 of 2003 is also dismissed.

Index: Yes

Internet: Yes

Rao

To

1.The Inspector of Police,
Q Branch - CID,
Chennai.

2.The Presiding Officer,
TADA Court,
Trichy.

3.The Public Prosecutor,
High Court,
Madras.□